

AN ACT

ENTITLED, An Act to revise the allowable share provision of the escrow fund for tobacco litigation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 10-50B-8 be amended to read as follows:

10-50B-8. A tobacco product manufacturer that places funds into escrow pursuant to subdivision 10-50B-7(2) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

- (1) To pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the state or any releasing party located or residing in the state. Funds shall be released from escrow under this subdivision in the order in which they were placed into escrow and only to the extent and at the time necessary to make payments required under such judgment or settlement;
- (2) To the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow on account of units sold in the state in a particular year was greater than the Master Settlement Agreement payments, as determined pursuant to section IX (i) of that agreement including after final determination of all adjustments, that such manufacturer would have been required to make on account of such units sold had it been a participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; or
- (3) To the extent not released from escrow under subdivision (1) or (2) of this section, funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five years after the date on which they were placed into escrow.

Section 2. That chapter 10-50B be amended by adding thereto a NEW SECTION to read as follows:

If any portion of the amendment to subdivision 10-50B-8(2) made by this Act is held by a court of competent jurisdiction to be unconstitutional, then subdivision 10-50B-8(2) shall be deemed to be repealed in its entirety. If that repeal of subdivision 10-50B-8(2) is thereafter held by a court of competent jurisdiction to render § 10-50B-8 unconstitutional, then this Act shall be deemed repealed, and subdivision 10-50B-8(2) restored as if no such amendment had been made. Neither any holding of unconstitutionality nor the repeal of subdivision 10-50B-8(2) affects, impairs, or invalidates any other portion of § 10-50B-8, or the application of such section to any other person or circumstance, and such remaining portions of § 10-50B-8 shall at all times continue in full force and effect.

An Act to revise the allowable share provision of the escrow fund for tobacco litigation.

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1054

\_\_\_\_\_  
Chief Clerk  
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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1054

File No. \_\_\_\_\_

Chapter No. \_\_\_\_\_

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Received at this Executive Office  
this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor  
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The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor  
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STATE OF SOUTH DAKOTA,  
ss.  
Office of the Secretary of State

Filed \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State